



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

JRE
Docket No: 975-96
26 October 1999

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: [REDACTED]
REVIEW OF NAVAL RECORD

Ref: (a) 10 U.S.C. 1552

Encl: (1) DD Form 149
(2) Ortho ltr 6320 Ser: 04/0511, 11 May 98
(3) CNRF ltr 1770 Ser: N01M, 8 Mar 99
(4) Subject's naval record

1. Pursuant to the provisions of reference (a), Subject, hereinafter referred to as Petitioner, filed enclosure (1) with this Board requesting, in effect, that his naval record be corrected by restoring him to active duty or, in the alternative, that he be issued a Notice of Eligibility for Disability Benefits (NOE).

2. The Board, consisting of Ms. Gilbert and Messrs. Neuschafer and Pfeiffer, reviewed Petitioner's allegations of error and injustice on 30 September 1999 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. In correspondence attached as enclosure (2), the Specialty Advisor for Orthopedic Surgery advised the Board, in effect, that Petitioner had a service-incurred, unresolved condition of his right knee when he was released from active duty on 29 September 1995, and that his case warranted review by the Physical Evaluation Board. In correspondence attached as enclosure (3), the Commander, Naval Reserve Forces, advised the Board, in effect, that Petitioner should have been offered, in the alternative, the opportunity to receive medical care until his problem had resolved or he had received maximum benefit of medical

care and the case was referred to the Physical Evaluation Board for disability determination, or of having the medical diagnosis documented on his DD Form 214 in order for him to become eligible for medical care within the Department of Veterans affair. .

CONCLUSION:

Upon review and consideration of all the evidence of record, and especially in light of the contents of enclosures (2) and (3), the Board finds the existence of an injustice warranting the following corrective action.

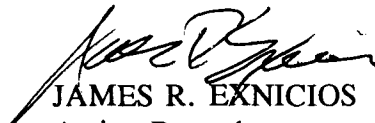
RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that he was issued a Notice of Eligibility for Disability Benefits effective 30 September 1995, due to an unresolved condition of his right knee which was present on 29 September 1995.

b. That a copy of this Report of Proceedings be filed in Petitioner's naval record.

4. Pursuant to Section 6(c) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(c)) it is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder


JAMES R. EXNICIOS
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.


W. DEAN PFEIFFER
Executive Director